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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement* submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 January 2000]

* This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

The International Federation of Human Rights (FIDH) and its partner organization Human Rights in China (HRIC) are extremely concerned about the ongoing severe and systematic violations of human rights in the People's Republic of China (PRC). While making a show of accepting human rights treaties, the Chinese government has stepped up repression of citizens who have peacefully attempted to exercise the rights guaranteed by these very instruments.

While China signed the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1998 and 1997 respectively, to date it has failed to ratify either of these core instruments, and has committed blatant violations of the rights they contain. These violations include extensive use of arbitrary detention, imprisonment of political and religious dissidents, torture and ill-treatment of detainees, deprivation of the rights to freedom of expression, association and assembly, widespread failure to enforce laws protecting the rights of workers and women, suppression of religious freedom and the use of physical and psychological coercion in the implementation of the population control policy. These human rights abuses have reached such alarming proportions over the past year that FIDH and HRIC believe that the Government of China is currently conducting the most ruthless repression of dissent since the June 4, 1989, Beijing Massacre.

FIDH and HRIC are deeply concerned about the various forms of administrative detention in the PRC, including the administrative measure known as Reeducation through Labor (RTL), which is still being widely used despite the recommendations of the UN Working Group on Arbitrary Detention and the long campaign by Chinese legal scholars and human rights groups to abolish it. According to China's official figures, a yearly total of 230,000 people are currently held under RTL, as compared to around 150,000 in the early 1990s. RTL is applied by the public security departments alone, without any judicial review, to people who have committed acts "too minor" to merit formal prosecution. Those sentenced to RTL are deprived of their rights to counsel, to a fair hearing and to have the lawfulness of their detention reviewed by a judicial authority. Although its maximum duration is three years, it can be renewed for up to one more year if the detainee is considered to have performed badly in his or her "reform." It is frequently used to detain people who have peacefully exercised their rights to freedom of thought, religion, expression and association, and around 50 such people are known to have been sent to labor camps in this way during the past year.

Another lesser known administrative measure is "Custody and Repatriation" (C&R). C&R allows for the arbitrary detention of people considered undesirable by urban authorities whose household registration is not located in the city where they are living or working. Targets include beggars, the homeless, street children, prostitutes and the mentally ill, as well as migrant workers in low status occupations. C&R affects upwards of two million people annually, with some five to 20 percent of these being children, most of whom are detained together with adults. Although generally imposed for up to ten days, C&R essentially allows the police to detain anyone for any reason virtually indefinitely. FIDH and HRIC are concerned about the lack of due process in this system of detention, which is frequently used by police as a way of avoiding the procedural safeguards recently incorporated into the law. They are also concerned about the

abusive conditions in the C&R detention centers. They urge the Government of China to eliminate RTL and C&R, as these systems of detention violate not only international standards, but also Chinese law.

FIDH and HRIC denounce the use of the criminal law, particularly laws on state security and secrets, to imprison people who have merely engaged in peaceful exercise of their basic rights. In 1999, such abusive use of the law particularly targeted members of the China Democracy Party (CDP) and of the Falungong spiritual group.

In August 1999, Liu Xianbin, a CDP activist in Sichuan, was sentenced to 13 years in prison for "conspiracy to subvert state power." Lawyers Liu's family sought to hire withdrew from the case after being pressured to do so by the authorities. In the same month, CDP members She Wanbao, Zha Jianguo and Gao Hongming received prison terms of 12, 9 and 8 years, respectively, also for subversion. Other prominent CDP members serving long sentences include Xu Wenli, Qin Yongmin and Wang Youcai, who were sentenced to 13, 12 and 11 years in December 1998 for attempting to set up the China Democracy Party as a legal independent political party. All were convicted of crimes "endangering state security."

In the trials of these activists, the right to present a defense was ignored, with defendants often being prevented from making statements, even when they had no defense lawyers; proper legal procedure was dispensed with; and the judges reproduced almost verbatim the prosecution indictments as their "verdict." FIDH and HRIC believe that the characterization of these "crimes" and the sentences to be imposed were decided in advance by the political authorities. Family members frequently had great difficulty in attending such trials.

FIDH and HRIC also strongly condemn the secret show trial of four key members of the Falungong group on December 26, as well as the severe sentences imposed. Two of the sentences, 18 years in the case of Li Chang, an official in the Public Security Ministry, and 16 years in the case of Wang Zhiwen, are the harshest known to have been handed down to people for peaceful exercise of their rights since the prosecution of 1989 demonstrators. Massive repression of Falungong members began in July when some 70 leaders were detained after the group was banned as an "illegal organization." In April, 10,000 Falungong members staged a peaceful demonstration in Beijing to demand official recognition.

These show trials and the extreme punishments imposed are the inevitable product of the resolution passed by the National People's Congress (NPC) Standing Committee on October 30. Although the resolution did not create any new legal standards to pursue the government's anti-Falungong crusade, it called for a political campaign reminiscent of the methods of the past using the tools already available in the Criminal Code's provisions allowing for the prosecution of those who use "secret societies and heretical religious groups" to "disturb social order." The NPC Decision was a political order to the country's entire law enforcement apparatus to give priority to "smashing" the Falungong and other "heretical" organizations.

The NPC Decision demonstrates how the agenda of China's judiciary continues to be set by the political priorities of the ruling Party, rather than the exigencies of the law or of social reality, a fact that FIDH and HRIC believe calls into question the direction of legal reform. The campaign against Falungong is part of a wider effort to restrict freedom of association by

ensuring that all "legal" groups are strictly monitored to make sure their activities conform with the leadership's objectives and concerns and by ruthlessly suppressing any efforts to organize independently, whether around issues of religion, politics, human rights, or protecting workers. FIDH and HRIC urge the Chinese government to immediately and unconditionally release all those sentenced to prison or RTL for peaceful acts relating to their membership of Falungong, and to lift the ban on the Falungong.

FIDH and HRIC believe that the Chinese government's suppression of dissent has borne out concerns they and others have previously expressed about how incorporating the term "state security" into Chinese law actually broadened the state's capacity to curtail fundamental rights. The way this "legal reform" has been used in the past year to justify violations of basic rights, including peaceful acts of freedom of expression, association and assembly, is very clear.

FIDH and HRIC strongly recommend that, in accordance with its mandate, the UN Commission on Human Rights adopt a resolution on the human rights situation in China which addresses the above concerns. This resolution should urge the Chinese government to ratify the ICESCR and the ICCPR and to implement their provisions; it should call on the Government of China to release immediately and unconditionally all prisoners of conscience and to allow all Chinese citizens to enjoy fully their rights to freedom of expression, assembly and association, and it should insist that the Government of China renew cooperation with the UN High Commissioner for Human Rights, which has been at a standstill since the March 1999 Needs Assessment Mission. The resolution should also urge the Government of China to implement the recommendations of the UN Working Group on Arbitrary Detention and to invite other thematic procedures to conduct in situ missions in accordance with their own terms of reference; and should request that the UN Secretary General draft a report on the human rights situation in China, to be presented at the next Commission session.